

J. Hagg



## CITY OF LAGUNA HILLS

August 22, 2007

By Email and U.S. Mail

John H. Robertus  
Executive Officer  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4353

**Subject: Comments for Revised Tentative Order No. R9-2007-0002; NPDES No. CAS0108740**

Dear Mr. Robertus:

The City of Laguna Hills has reviewed the subject order dated July 6, 2007, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District within the San Diego Region (Tentative Order No. R9-2007-0002) (NPDES No. CAS0108740). The City of Laguna Hills as Co-Permittee, welcomes the opportunity to provide further comments on the Revised Tentative Order. The City supports the comment letter prepared by the County of Orange (Principal Permittee) and would also like to address specific technical comments that may affect the City locally.

City Staff submitted extensive comments on the initial Tentative Order on April 4, 2007. A number of our technical comments have not been addressed in the Revised Tentative Order. Therefore, City Staff is using this opportunity to re-iterate some of the initial concerns and emphasize our outstanding concerns.

Overall, the Tentative Order establishes general standards of care to be met for water quality as a result of urban runoff. Hence, the permit includes specific regulations affecting City operations including development planning, construction and municipal activities, watershed urban runoff management, fiscal analysis of local NPDES funding, etc. The City of Laguna Hills is committed to improving storm water quality and protecting our natural resources, and believes that some of the specific regulations in the Tentative Order may adversely affect our ability to effectively deliver the water quality improvements that the Board and the City are seeking to obtain. Consequently, the City of Laguna Hills working through the Principal Permittee would like to work closely with the Regional Water Board staff to revise some of the requirements in

the Tentative Order to ensure that the most effective strategies are implemented to ensure water quality. Some of the directives and provisions of concern are as follows:

- Section (D.3.b(3)a) of the Tentative Order requires the Permittees to develop and implement a program to reduce the discharge of pollutants from Mobile Businesses; to keep a listing of Mobile Businesses within the Co-Permittees jurisdiction; to develop minimum standards and Best Management Practices (BMP's) for the various types of Mobile Businesses; to notify the Mobile Businesses known to operate within the Permittees jurisdiction of the minimum standards and BMP's; and inspect the Mobile Businesses as needed to implement the program. This provision is problematic for several reasons as described below:

- A mobile Business is not clearly defined.
- The City does not require a business license, leaving the City without a listing of Mobile Businesses;
- The city does not have staff to roam the City looking for Mobile Businesses;
- Mobile Businesses operate in multiple jurisdictions and cannot be tracked as to time and place, and;
- Mobile Businesses may operate on private property out of the City's view.

City Staff believes the Tentative Order should include language that limits the scope of the provision until the costs and benefits of the program are better understood. As such, the Tentative Order should include language that allows the Permittees to identify a mobile business category that may be a significant source of pollutants and develop a pilot program. The pilot program would allow the Permittees to work together on a regional basis to develop an appropriate framework for addressing mobile businesses and identify if the program is effective prior to expending a significant amount of resources on multiple categories of unknown mobile businesses.

- Section (D.4.e(2)b) of the Tentative Order imposes new requirements that the Permittees conduct an investigation or document why a discharge does not require an investigation, within two business days of receiving dry weather field screening results that exceed action levels. City Staff believes two days to begin an investigation is not sufficient and is not warranted. Performing an investigation of dry weather data requires analyzing the data, pulling together the resources, analyzing maps, etc. City Staff suggests that this language be amended to advise Co-Permittees to initiate an investigation rather than to conduct one within two business days for both field screen data and analytical data.

- Section (D.4.f) of the Tentative Order requires the Permittees to immediately eliminate illegal discharges that pose a threat to the public's health or environment. As it takes some time to gather resources and respond to illegal discharges/illegal connections, this language should be amended to allow flexibility as to eliminate illegal discharges in a timely manner, rather than immediately.

- Section (D.4.h (2)) of the Tentative Order requires that the Permittees prevent, respond to, contain and clean up sewage from any notification of sewage spills from private laterals and

failing septic systems. This provision is not feasible for many cities including Laguna Hills due to the fact that the City does not own or operate the sewer system. The sewer/water systems in the City are privately owned and maintained by the water district. The water districts have their own NPDES permits. City Staff suggests that this language be replaced with language that would allow the City to coordinate and implement management measures rather than holding it responsible.

- Section (F.3) of the Order requires the submission of a "Municipal Stormwater Funding Business Plan" by the end of the permit term. The Plan would identify the long term funding strategies for program evolution and funding decisions along with planned funding methods and mechanisms for Municipal Stormwater Management. Staff believes this provision is inappropriate, as the City has consistently funded its Stormwater Management Obligations. Moreover, the City submits a Fiscal Analysis in its Annual reports, also known as JURMPs (Local Implementation plan or LIP). The proposed Business Plan becomes subject to review and approval by the Board, a function that is only appropriately a budget function of the City Council. The City believes that the Regional Water Quality Control Board should not be an integral part of the City's budget process, and hence we request that this provision should be deleted.

City Staff would appreciate your consideration of these comments in making additional revisions to the Permit language. We believe that a revised Order addressing the City and County comments would assist the City in carrying out a more effective and successful Stormwater Program.

Sincerely,



for  
Kenneth H. Rosenfield, P.E.  
Director of Public Services

cc: Bruce Channing, City Manager  
Chris Compton, County of Orange, PF&RD